

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)	
)	
Amendment of Section 73.202(b))	
FM Table of Allotments,)	
FM Broadcast Stations.)	
(Hilton Head Island, Hollywood and Port)	MB Docket No. 02-198
Royal, South Carolina))	RM-10513
)	
)	

REPORT AND ORDER

Adopted: December 18, 2002

Released: December 20, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rulemaking*¹ issued at the request of Apex Broadcasting, Inc., licensee of Station WJZX(FM), Channel 259C, Port Royal, South Carolina, and Monterey Licenses, LLC licensee of Station WLOW(FM), Channel 300C2, Hilton Head Island, South Carolina ("Petitioners"), proposing to reallocate Channel 259C from Port Royal to Hollywood, South Carolina, as the community's first local aural transmission service and modify the license of Station WJZX(FM) to reflect the new community. To accommodate this change, they propose to reallocate Channel 300C2 from Hilton Head Island to Port Royal to retain Port Royal's sole local aural transmission service and modify the license of Station WLOW(FM) to reflect the new community. Petitioners filed comments in support of the proposal and reiterated the intention to file the necessary applications to implement the modification. We received no other comments.

2. Petitioners filed their proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² Here, the amended allotment would be mutually exclusive with the station's present allotment. In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based on the FM Allotment priorities.³

3. In support of the proposal, Petitioners state that Hollywood is a community for allotment

¹ See *Hilton Head Island, Hollywood and Port Royal, South Carolina*, 17 FCC Rcd 14467 (MB 2002).

² See *Change of Community Report and Order* FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

³ The FM Allotment priorities are: (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1982).

purposes and is deserving of a first local aural transmission service. Hollywood is listed in the U.S. Census with a 2000 population of 3,946 persons. It has a zip code, post office and elected mayor and six member Town Council. The town government also has a town clerk/treasurer and planning administrator. There are fire services offered by surrounding jurisdictions but for the exclusive use of Hollywood citizens. Police service is provided by the county sheriff. There are numerous retail establishments, churches, schools and clubs. They also state that the proposal will result in a public interest benefit because Hollywood will gain a first local aural transmission service and Port Royal will not be left unserved because Channel 300C2 will be a replacement channel at that community.

4. We will grant the change of community. We find that Hollywood is a community for allotment purposes and that the proposal will serve the public interest. The proposal will result in a public interest benefit because Hollywood will gain a first local aural transmission service and Port Royal will not be left unserved because Station WLOW(FM) is being modified on Channel 300C2 as a replacement channel at that community. Since there are no changes in existing transmitter sites, there are no population gains or losses and the coverage over the Savannah, Georgia Urbanized Area remains the same (37.6%).

5. Channel 259C can be reallocated from Port Royal to Hollywood at Station WJZX(FM)'s current transmitter site 41.2 km (25.6 miles) southwest of the community.⁴ Channel 300C2 can be reallocated from Hilton Head Island to Port Royal at Station WLOW(FM)'s current transmitter site 22.3 km (13.9 miles) southwest of the community.⁵

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective, **February 3, 2003**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Hollywood, South Carolina	259C
Hilton Head Island, South Carolina	291C2
Port Royal, South Carolina	300C2

7. IT IS ORDERED That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this *Order* to the following:

Erwin G. Krasnow	David D. Oxenford
Mark N. Lipp	Shaw Pittman LLP
J. Thomas Nolan	2300 N Street, N.W.
Shook, Hardy & Bacon	Washington, DC. 20037
600 14 th Street, N.W.	(Counsel to Monterey Licenses, LLC)
Suite 800	
Washington, D.C. 20005	
(Counsel to Apex Broadcasting, Inc)	

8. IT IS FURTHER ORDERED That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Apex Broadcasting, Inc. for Station WJZX(FM), Port Royal, South Carolina, IS MODIFIED to specify operation on Channel 259C, at Hollywood, South Carolina, and the license of Monterey Licenses, LLC for Station WLOW(FM), Hilton Head Island, South Carolina, IS

⁴ Channel 259C can be allotted at Hollywood at coordinates 32-25-10 NL and 80-28-30 WL.

⁵ Channel 300C2 can be allotted at Port Royal at coordinates 32-13-36 NL and 80-50-53 WL

MODIFIED to specify operation on Channel 300C2 At Hilton Head Island, South Carolina, subject to the following conditions:

- a) Nothing contained herein shall be construed to authorize any change in License Nos. BLH-19961227KD and BLH-19880725KB, respectively, except for the channel as specified above. Any changes, except for those specified, require prior authorization pursuant to an application for construction permit.
- b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the rules, provided that the transmission facilities comply in all respects with License Nos. BLH-19961227KD and BLH-19880725KB, respectively, except for the channel as specified above, and license applications (Form 302) are filed within 10 days of commencement of program tests.

9. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change of community. As a result of this proceeding, Apex Broadcasting, Inc., licensee of Station WJZX(FM), Port Royal, South Carolina, Monterey Licenses, LLC licensee of Station WLOW(FM), Hilton Head Island, South Carolina, are required to submit rule making fees in addition to the fees required for the applications to effect the changes of community for Stations WJKX(FM) and WLOW(FM).

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED

11. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau